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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/766,032      | 01/19/2001  | Gary L. Bennis       | 5437cp              | 7928             |

7590

11/12/2002

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EXAMINER

ROWAN, KURT C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 11/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/766,032

Applicant(s)

BENNIS

Examiner

KURT ROWAN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 4, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 18-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Claim Rejections - 35 U.S.C. § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 20 recites that the bobber has a spring constant in water which is confusing. In claim 20, line 2, "having a spring constant that is about equal to the spring constant of the bobber in water or" should be deleted and --such that-- or equivalent should be inserted to overcome this rejection.

### ***Claim Rejections - 35 U.S.C. § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Ingram for substantially the same reasons stated in the first Office Action.

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The patent to Ingram shows a two stage fishing bobber having a main body 10 and a member 12 resiliently displace able with respect to the bobber main body in response to a force on the member as disclosed in column 2, lines 20-30.

***Claim Rejections - 35 U.S.C. § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ingram for substantially the same reasons stated in the first Office Action.

The patent to Ingram shows a two stage fishing bobber which forces down the member and then the main body. In reference to claim 19, it would have been obvious to employ a force to displace the member to a down position equal to the buoyant force of the bobber main body so that when the member is in the down position the bobber main body is submerged since this is merely a matter of design choice since not stated problem is solved.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ingram as applied to claim 18 above, and further in view of Behensky for substantially the same reasons stated in the first Office Action.

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The patents to Ingram and Behensky show fishing floats. Ingram has been discussed above and does not show a spring. The patent to Behensky shows a resiliently displaceable member 10, 15 with a spring 16. In reference to claim 20, it would have been obvious to provide Ingram with a displaceable member as shown by Behensky since merely one equivalent mechanical member is being replaced with another to hold the fishing line in the bobber main body.

### ***Response to Arguments***

8. Applicant's arguments filed September 4, 2002 have been fully considered but they are not persuasive. Applicant should address the rejection under 35 U.S.C. 112, second paragraph in response to this Office Action. As to the gradual resistance of due to submersion of the bobber, Ingram shows the stem 12 tapering at lower tapered portion 16 and upper portion 14 so that as the stem is pulled down a gradual pull on the line as the stem displaces more water which is a gradual resistance. Since the stem is pulled down before the body 10 and displaces a much larger volume than the body, when the body is submerged, the volume of the body will cause only a gradual increase in resistance. Applicant has submitted no evidence that there is not a gradual increase in the force to displace the members of Ingram. Applicant has not quantified what constitutes a gradual increase in force. Applicant should claim the structure of the device since clearly there are structural differences between the present invention and the prior art. Both Ingram and Behensky use the wedge and the spring to hold the fishing line fixed with respect to the float. Behensky permits the float to be adjusted on the line. The combination of Ingram as

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modified by Behensky contemplates not only the spring but also the tube 10 and hollow cylindrical sleeve 4 as a unit to replace the wedge 18 and tube 13 of Ingram so that the stem member is displace able with respect to the float body and the line is held between the tube and cylindrical sleeve. Behensky shows a spring whose spring constant is about equal to the spring constant of the bobber in water. Applicant provides not data on the exact numbers of the spring constant or the spring constant of the bobber in water and does not prove that the spring constant of the spring used by Behensky is materially different than that of the present invention.

### *Conclusion*

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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10.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink that reads "Kurt Rowan". The signature is written in a cursive, slightly slanted style.

KURT ROWAN

PRIMARY EXAMINER

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November 7, 2002